

Applicants: Ron S. Israeli et al.  
Serial No.: 08/403,803  
Filed : March 17, 1995  
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--126.

(New) A method of producing a polypeptide which comprises using the host vector system of claim 125 under suitable conditions permitting production of the polypeptide and recovering the polypeptide so produced.--

#### Remarks

Claims 90-99 were pending in the subject application. An Advisory Action issued by the United States Patent and Trademark Office on September 23, 1999 indicated that applicants' Amendment in Response to February 18, 1999 Final Office Action and Petition for a Three Month Extension of Time, filed on August 18, 1999 would not be entered. Applicants respectfully request the entry of the amendment filed on August 18, 1999. In addition, applicants have hereinabove canceled claims 90-99 without disclaimer or prejudice to their right to pursue the subject matter of these claims in a later-filed application and added new claims 100-126. Applicants contend that these amendments do not involve any issue of new matter. Support for these amendments may be found inter alia in the specification as follows: claims 100-105 and 121: page 23, lines 9-29; claims 106-112 and 118-120: page 23, lines 9-29, page 22, lines 9-11, page 30, lines 5-11 and lines 29-33, page 31, lines 14-16, page 32, lines 24-32, page 53, line 20 to page 54, line 1; claims 113-115: see preceding support for claims 106-112 and 118-120, and page 23, lines 9-29, page 55, lines 5-16, and page 32, lines 24-32; claims 116-117: page 15, lines 1-20 and page 23, lines 9-29; claim 122-123: page 16, line 1 to page 17, line 5, and page 127, lines 22-26; claims 124-126: page 16, lines 1-16. Applicants respectfully request the entry of these amendments such that claims 100-126 will be pending.

#### Advisory Action

The September 23, 1999 Advisory Action states that the scope of the

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claims has changed as the claims recite for the first time SEQ ID NO:1 which would require a new search on the sequence and further consideration. The Advisory Action states that claim 90 as amended would also require a new §112, second paragraph rejection to be made because a sequence can't be identical to a sequence and complementary (hybridizing) to it simultaneously. The Advisory Action also states that as claim 90 is drafted, it is not clear what has the sequence of SEQ ID NO:1, that is whether the probe or the target DNA has the sequence. The Advisory Action questions what is being hybridized with what in claim 90 as drafted.

In response, applicants without conceding the correctness of the Examiner's position but to expedite prosecution of the subject application have hereinabove canceled claim 90 without prejudice to their right to pursue the subject matter of this claim in a later-filed application and added new claim 100 which recites as follows: "A nucleic acid probe which (a) is at least 15 nucleotides in length and (b) hybridizes specifically to a nucleic acid having a sequence set forth in SEQ ID No. 1." Applicants respectfully submit that the nucleic acid probe of new claim 100 is not both identical and complementary to a sequence simultaneously. Applicants contend that this amendment obviates the above rejection and respectfully request that the Examiner reconsider and withdraw the rejection.

#### **SUPPLEMENTAL INFORMATION DISCLOSURE STATEMENT**

In accordance with their duty of disclosure under 37 C.F.R. §1.56 applicants would like to direct the Examiner's attention to the following references which are listed on the attached Form PTO-1449 (**Exhibit A**) and attached hereto as **Exhibits 1-2**:

1. Kay et al., U.S. Patent 5,852,167, issued December 22, 1998 (**Exhibit 1**); and

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2. Wright et al., U.S. Patent 5,153,118, issued October 6, 1992  
(Exhibit 2).

Summary

In view of the foregoing remarks, applicants respectfully request that the above grounds of objection and rejection be reconsidered and withdrawn and earnestly solicit allowance of the now pending claims.

If a telephone interview would be of assistance in advancing prosecution of the subject application, applicants' undersigned attorney invites the Examiner to telephone him at the number provided below.

No fee is deemed necessary in connection with the filing of this Amendment. However, if any fee is required, authorization is hereby given to charge the amount of any such fee to Deposit Account No. 03-3125.

Respectfully submitted,

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I hereby certify that this correspondence is being deposited this date with the U.S. Postal Service with sufficient postage as first class mail in an envelope addressed to: Assistant Commissioner for Patents, Washington, D.C. 20231.	
	3/20/00
John P. White Reg. No. 28,678	Date